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the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fifty-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the Elimination of Racial Discrimination

Peru

1. The Committee considered the twelfth and thirteenth periodic reports of Peru (CERD/C/298/Add.5) at its 1317th and 1318th meetings (CERD/C/SR.1317 and 1318), held on 9 and 10 March 1999, and adopted the following concluding observations at its 1330th meeting on 18 March 1999 (CERD/C/SR.1330).

A. Introduction

2. The Committee welcomes Peru's submission of its twelfth and thirteenth periodic reports and the opportunity thus afforded to pursue a dialogue with the State party. The Committee thanks the State party for having sent a high-level delegation, led by the Minister of Justice, which provided additional information in reply to the many questions raised by the members of the Committee during the consideration of the report.

B. Positive aspects

3. The Committee takes note with satisfaction of the information provided on the marked decrease in the activities of subversive groups and on the fall in the number of complaints concerning human rights violations.

4. It also takes note with satisfaction of the information provided by the State party on the improvement in the country's economic situation.

5. It takes note with interest that Peru supports Agenda 21, adopted at the United Nations Conference on Environment and Development, one chapter of which deals with the role of indigenous communities and environmental preservation. Peru also took part in the establishment of a Special Commission on Indigenous Affairs in Amazonia and supported the creation of the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean.

6. The Committee takes note of the agreement reached with the International Labour Organization on the setting up of a special programme for the protection of indigenous communities, under which complaints concerning violations of human rights can be investigated and prosecuted.

7. The inclusion in school syllabuses of material intended to prevent racial discrimination is also noted with interest.

8. The Committee expresses satisfaction at the establishment of the Office of the Ombudsman and of its programme of activities for the indigenous population.

9. The Committee is pleased that Peru has made the optional declaration provided for in article 14 of the Convention, thereby accepting the procedure for individual communications.

C. Principal subjects of concern

10. The Committee regrets that the report provides only a partial response to the observations and recommendations made when the previous report was considered in 1995.

11. The Committee would like to know if the changes brought about by the 1993 Constitution regarding the status of international treaties, including the Convention, as opposed to national norms, could be detrimental to the implementation of the Convention.

12. The Committee notes with concern the close relationship between socio-economic underdevelopment and the phenomena of ethnic or racial discrimination against part of the population, chiefly the indigenous and peasant communities. In this respect, the Committee regrets the absence in the periodic report of information on the socio-economic indicators relevant to the situation of populations of indigenous, peasant or African origin. It nevertheless notes that the report acknowledges shortcomings in areas such as housing and health.

13. With regard to the implementation of article 2 of the Convention, the Committee reiterates its observations concerning the lack of information enabling it to know how the constitutional provisions guaranteeing the protection of the right to freedom from discrimination on racial or ethnic grounds are applied in practice.

14. With regard to article 4 of the Convention, the Committee notes with concern the lack of specific legislative provisions aimed at giving full effect to the Convention, though it acknowledges the existence of legislative initiatives aimed at making up for that lack.

15. The Committee regrets the absence of information on the number of complaints and court decisions concerning acts of racism and on the reparation awarded as a result. It notes with concern that in the cases brought before the courts, it was reportedly entirely up to the plaintiff to prove discrimination.

16. With respect to the right to equal treatment before the courts, the Committee notes with concern reports that interpreters are not in practice available to monolingual indigenous people and that legislation has not been translated into indigenous languages.

17. It is also worrying to learn that people who are in fact subjected to all sorts of pressure, from both subversive groups and the forces of law and order, are being charged with aiding and abetting terrorists. Allegations have further been made that indigenous communities are being forced to set up self-defence committees under the armed forces and that young people from the most underprivileged sectors of the population are being conscripted by force.

18. The Committee takes note of reports that the indigenous population, the members of which often have no identity papers and are illiterate, is thus deprived of the possibility of exercising its civic and political rights.

19. The Committee takes note of the information on major shortcomings in the health services provided for the rural population in the Andes and in Amazonia, and of the allegations of forced sterilization of women belonging to indigenous communities. It also takes note of reports that there is a difference of almost 20 years between the life expectancy of people of indigenous origin and that of the rest of the population.

20. With regard to the right to employment, the Committee takes note with concern of the reports that access to jobs and promotions is often influenced by racial criteria, while certain minor or disparaged jobs are left to persons of indigenous or African origin.

21. With regard to the right of access to all public places, the Committee takes note of the promulgation in late 1998, following complaints of discriminatory practices in that respect, of legislation prohibiting the owners of establishments open to the public from screening their clients on racial grounds. The Committee regrets, however, that this prohibition is not yet accompanied by any form of penalty.

22. The Committee is concerned about reports that the 1993 Constitution no longer totally guarantees that the communal property of indigenous populations is inalienable and unavailable for use.

23. With regard to the right to education, the Committee regrets the absence of information in the report on the number of children from communities of indigenous, peasant or African origin not attending school.

D. Suggestions and recommendations

24. Measures should be taken to guarantee the right of the most underprivileged members of the population to benefit from all the rights listed in article 5 of the Convention and the right to equal treatment before the courts and in the exercise of their political rights.

25. The Committee recommends that the State party bring its penal legislation into line with the provisions of the Convention, in particular with regard to article 4.

26. Programmes of instruction in human rights intended for justice administration personnel and members of the security forces should include training in the prevention of and protection against racial discrimination.

27. The Committee recommends that the State party take measures aimed at establishing a genuine dialogue between the Government and non-governmental organizations in the fight against racial and ethnic discrimination.

28. In its next report, the State party should provide information on, inter alia: (a) the ethnic make-up of the population, insofar as such information is available; (b) socio-economic indicators relevant to the situation of populations of indigenous, peasant or African origin; (c) the progress made to the benefit of those people on each of the rights listed in article 5 of the Convention; (d) the measures of legislative reform taken with a view to full compliance with the requirements of article 4 of the Convention and the punishment of all forms of racial and ethnic discrimination; (e) the follow-up to complaints from the victims of racial and ethnic discrimination and to their requests for reparation, in accordance with article 6 of the Convention; (f) the measures taken to train agents responsible for the implementation of legislation in terms of tolerance and inter-ethnic and inter-racial understanding; (g) the measures taken to spread knowledge of the Convention and to publicize the Committee's reports and concluding observations.

29. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

30. The Committee recommends that the State party's next report, which was due on 29 October 1998, be an updating report and that it should cover all the suggestions and recommendations made in these concluding observations.